IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 10TH APRIL, 2007 / 20TH CHAITHRA, 1929

WP(C).No. 10689 of 2006(V)

PETITIONER:

SALIM C., S/O. C. AALI,
CHELLAPPURATH VEEDU, NARIKUNDU, AMBALAVAYAL.

BY ADV. SRI.GRASHIOUS KURIAKOSE

RESPONDENTS:

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1. THE GEOLOGIST,
DISTRICT OFFICE, MINING AND GEOLOGY DEPARTMENT,
MEENANGADI, WAYANAD DISTRICT.

2. THE DEPUTY COLLECTOR (L.T.)-CUM -
ADMINISTRATIVE OFICER, AMBALAVAYAL P.O.,
WAYANAD DISTRICT.

3. THE DISTRICT COLLECTOR,
WAYANAD, OFFICE OF THE DISTRICT COLLECTOR,
KALPETTA P.O., WAYANAD DISTRICT.

BY GOVT.PLEADER SMT.ANU SIVARAMAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO.10689 OF 2006)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of the permit dtd.20.3.2006 issued by first respondent to the petitioner's father.

Ext.P2: Copy of the letter dtd.23.3.2006 issued by first respondent to the petitioner.

Ext.P3: Copy of the order dtd.5.10.1996 issued by third respondent.

Ext.P4: Copy of the order dtd.14.8.2001 in CMP No.39390/2001 in O.P.No.23990/2001 issued by this Court.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) NO.10689 OF 2006 V

Dated this the 10th day of April, 2007

J U D G M E N T

The petitioner's late father was issued with a quarrying permit on the basis of a No Objection Certificate issued by the second respondent for a period of 12 years. By Ext.P3 order, the third respondent has restricted the validity of the No Objection Certificate to a period of three years. The contention of the petitioner is that Ext.P3 order was passed without notice to the father of the petitioner. Although the operation of Ext.P3 order is stayed by Ext.P4 order, the petitioner is not being given the benefit of the stay order since the petitioner's father is not a party to the said proceedings. It is, under the said circumstances, the petitioner has approached this Court seeking the following reliefs:-

> "a. issue a writ of certiorari or other appropriate writ, order or direction calling for the original of Ext.P3 order and to quash it;
>
> b. issue a writ of prohibition restraining the respondent from demanding for fresh No Objection Certificate from the petitioner;

> c. to declare that the period of No Objection Certificate granted to the petitioner's father is for 12 years from the date of issue;
>
> d. direct the first respondent to change the quarrying permit existing in the name of the father of the petitioner to the name of the petitioner.
>
> And
>
> e. grant such other and further reliefs which are just and necessary."

The petitioner relied on the judgment of this Court in O.P.No.23990 of 2001 wherein without going into the merits of the contentions of the case, the District Collector was directed to pass fresh orders after hearing the petitioners in that case. The petitioner herein seeks the similar order.

2. The learned Government Pleader points out that the No Objection Certificate was issued in the name of the petitioner's late father which has not been transferred in the name of the petitioner and therefore, the petitioner cannot, on the basis of that No Objection Certificate, claim any permit. However, she submits that it would be open to the

petitioner to apply for a fresh No Objection Certificate which would be considered in accordance with law and orders in force. Therefore, without prejudice to the right of the petitioner to apply for a fresh No Objection Certificate in his name, this writ petition is disposed of with a direction to the third respondent to consider the application to be submitted by the petitioner in accordance with law and the judgment relied on by the petitioner.

Sd/-

S. SIRI JAGAN,
Judge

Mbs/

-True Copy-

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:13-02-2007